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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/687,673 | 10/20/2003 | Gi Joong Jeong | 1594.1288 | 9347 |
| 21171 | 7590 | 03/07/2006 | EXAMINER | |
| STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005 | | | JIANG, CHEN WEN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3744 | |

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/687,673 | | JEONG ET AL. | |
| | Examiner | | Art Unit | |
| | Chen-Wen Jiang | | 3744 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 13-21, 23, 24 and 27-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 22, 25, 26 and 30-35 is/are rejected.
- 7) ☒ Claim(s) 2-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>20031020, 20050203</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I (Fig.2 and claims 1-12,22,25,26 and 30-35) in the reply filed on 12/2/2005 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,31,32 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hull (U.S. Patent Number 1,761,040).

Hull discloses a refrigerating apparatus as shown in Fig.1. The apparatus comprises a storage chamber 21, a cooling chamber 22, machine chamber 33, evaporator 43 and circulating passages 28,29. The cooling chamber 22 is an uplifted part projected from top of the storage chamber 21 and the machine chamber 33 is located at the front of the cooling chamber. The front and rear are relative terms and has no weight in the claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 1,25,26 and 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gidseg (U.S. Patent Number 4,776,182) in view of Hull (U.S. Patent Number 1,761,040 and 1,780,425) or vice versa.

Gidseg discloses a circulating air refrigerator having power module. In regard to claims 1,30,32,33 and 34, referring to Figs.1 and 3, the refrigerator comprises insulated refrigeration cabinet 12, an evaporator 32 and an evaporator fan 34 located in the upper portion projected from rear portion of the cabinet 12, cold air entry duct 36 and cold air discharge duct 40. The machine chamber comprises a compressor 14, condenser 22 and condenser fan 26. Gidseg discloses the invention substantially as claimed. However, Gidseg does not disclose uplifted portion for evaporator. Hull discloses the evaporator can be located in the uplifted portion in the same field of endeavor for the purpose of arranging refrigeration system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Gidseg with an uplifted portion in view of Hull so as to locate evaporator.

In regard to claims 25 and 26, Gidseg discloses a compressor 14, a condenser 22 and a condenser fan 26 located in the machine room with casing.

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In regard to claims 31 and 35, Hull discloses a plurality passages provided for circulating air.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gidseg/Hull as applied to claim 1 above, and further in view of Lee (U.S. Patent Number 5,826,442).

Gidseg/Hull disclose the invention substantially as claimed. However, Gidseg/Hull do not disclose upper passage spaced apart from a top of the storage chamber. Lee discloses upper passage spaced apart from a top of the storage chamber in the same field of endeavor for the purpose of direct air. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Gidseg/Hull with a spaced apart passage in view of Lee so as to direct circulated air.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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8. Claims 1,22,25,26 and 30-35 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-47 of copending Application No. 10/644,937. Although the conflicting claims are not identical, they are not patentably distinct from each other because the current claims differ only in the use of synonymous language which one of ordinary skill in the art would recognize to be equivalent terms. For example, “storage compartment”, “cooling chamber” and “top” in the co-pending application is clearly the same as “storage chamber”, “cooling room” and “above” in the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 1,22,25,26 and 30-35 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U.S. Patent No. 7,003,973. Although the conflicting claims are not identical, they are not patentably distinct from each other because “cooling set which is installed at the upper rear part of the cooling compartment” is equivalent to “cooling room is an uplifted part projected from a rear portion of a top of the storage chamber”.

10. Claims 1,22,25,26 and 30-35 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,735,976. Although the conflicting claims are not identical, they are not patentably distinct from each other because the current claims differ only in the use of synonymous language which one of ordinary skill in the art would recognize to be equivalent terms. For example, “cabinet”, “projecting part upwardly projected” and “upper portion” in the co-pending application is clearly the same as “body”, “an uplifted part projected” and “top of the body” in the present application.

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Allowable Subject Matter

11. Claims 2-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809. The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang
Primary Examiner

